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IN THE DISTRICT COURT OF THE UNITED STATES

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No. 281

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MINEMITSU TOYOTA

THE UNITED STATES OF AMERICA

IN THE DISTRICT COURT OF THE UNITED STATES  
APPEALS FOR THE FIRST CIRCUIT

WILLIAM H. HARRIS & SONS

(25,000)

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1941 - 227/MS

**(29,988)**

**SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM. 1924**

**No. 231**

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**HIDEMITSU TOYOTA**

*vs.*

**THE UNITED STATES OF AMERICA**

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**ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE FIRST CIRCUIT**

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**UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE FIRST CIRCUIT.**

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OCTOBER TERM, 1923.

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No. 1653.

HIDEMITSU TOYOTA,  
DEFENDANT, APPELLANT,  
v.  
UNITED STATES OF AMERICA,  
PETITIONER, APPELLEE.

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APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS.

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BEFORE BINGHAM, JOHNSON AND ANDERSON, JJ.

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QUESTION OF LAW CERTIFIED BY THE UNITED STATES  
CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT  
TO THE SUPREME COURT OF THE UNITED STATES.

NOVEMBER 10, 1923.

This is a petition under Section 15 of the Act of June 29, 1906, to cancel the certificate of naturalization issued to one Hidemitsu Toyota. The agreed facts are as follows:

"It is agreed that Hidemitsu Toyota is a person of the Japanese race, born in Japan; that he entered the United States in the year 1913; that he has served substantially continually in the United States Coast Guard Service (formerly called the United States Revenue Cutter Service) from November, 1913, to date, May, 1923; that during nearly all the period when the United States was engaged in the recent Great War the said service was a part of the naval forces of the United States; that he has eight or more honorable discharges issued to him for such service, some of them

being for service during the said war; that he filed his petition for naturalization, said petition being No. 58,600, in the District Court of the United States for the District of Massachusetts, at Boston, on May 14, 1921, relying on the Act of May 9, 1918 (c. 69, 40 Stat. 543, Comp. Stat. 1918, Sec. 4352 (7)-(13), and Sec. 4352aa), and on the Act of July 19, 1919 (c. 24, Sec. 1, 41 Stat. 222, Com. Stat. 1923, Supp. Sec. 4352aaa); that the said District Court granted his said petition on May 16, 1921, by virtue of the said acts; that on the same day a certificate of naturalization, No. 1,591,923, was issued to him.

"It is further agreed that if a person of the Japanese race born in Japan may legally be naturalized under subdivision 7, Section 4 of the Act of June 29, 1906, as amended by the Act of May 9, 1918, or the Act of July 19, 1919, the defendant in this case is legally naturalized."

In the District Court it was held that Toyota was not entitled to be naturalized under subdivision 7, Section 4 of the Act of June 29, 1906, as amended by the Act of May 9, 1918, or under the Act of July 19, 1919, and entered an order canceling his certificate of citizenship, from which order or decree this appeal was taken.

We desire the instruction of the Supreme Court upon the following questions:

(1) Whether a person of the Japanese race, born in Japan, may legally be naturalized under subdivision 7, Section 4 of the Act of June 29, 1906, as amended by the Act of May 9, 1918.

(2) Whether such subject may legally be naturalized under the Act of July 19, 1919 (c. 24, Sec. 1, 41 Stat. 222; Comp. Stat. 1923, Supp. Sec. 4352aaa).

It is now, to wit, November 10, 1923, ordered, that the foregoing statement of facts, and questions of law arising thereon, be certified under the seal of this court, and transmitted to the Supreme Court.

By the Court,

ARTHUR I. CHARRON, *Clerk*.

## IN UNITED STATES CIRCUIT COURT OF APPEALS

## CLERK'S CERTIFICATE

And now, here, the Judges of the United States Circuit Court of Appeals for the First Circuit, certify that the foregoing is a true copy of an Order of Court entered on November 10, 1923, in said cause numbered and entitled, No. 1653, Hidemitsu Toyota, Defendant, Appellant, v. United States of America, Petitioner, Appellee, and that pursuant to said order, the statement of facts and questions of law arising thereon, together with the fact that said Circuit Court of Appeals desires the instruction of the Supreme Court of the United States for the proper decision of said questions of law, contained in said order, are hereby certified under the seal of said United States Circuit Court of Appeals for transmission to said Supreme Court.

In testimony whereof I hereunto set my hand and affix the seal of said United States Circuit Court of Appeals for the First Circuit at Boston, in the First Judicial Circuit, this thirteenth day of November, A. D. 1923.

Arthur I. Charron, Clerk. (Seal of the United States Circuit Court of Appeals First Circuit.)

Endorsed on cover: File No. 29,988. U. S. Circuit Court of Appeals, First Circuit. Term No. 231. Hidemitsu Toyota vs. The United States of America. (Certificate.) Filed December 3, 1923. File No. 29,988.

# In the Supreme Court of the United States

OCTOBER TERM, 1924

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HIDEMITSU TOYOTA	} No. 231
v.	
UNITED STATES	

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## JOINT REQUEST TO REINSTATE FOR HEARING

In accordance with Section 9, Rule 26, counsel for the parties in the above-entitled case request the Court to restore it to the calendar for hearing and suggest that it be placed at the foot of the call for Monday, March 16, 1925, or as soon thereafter as practicable.

On motion made by the Solicitor General of the United States on behalf of counsel for Hidemitsu Toyota, this case was continued on January 22, 1925, when reached for argument, because the record was not then in print. Toyota is a person in poor circumstances, and it has been necessary for his counsel to provide for the printing of the record in this Court out of his own resources. The record is now, however, in the course of printing, and it is expected that it will be in the hands of counsel within the next few days.

For the reasons stated in the appended affidavits the case should, in the opinion of counsel, be restored to the calendar for hearing.

JAS. M. BECK,

*Solicitor General.*

LAURENCE M. LOMBARD,

*Counsel for Toyota.*

FEBRUARY 25, 1925.

**AFFIDAVIT IN SUPPORT OF JOINT REQUEST OF COUNSEL  
TO REINSTATE FOR HEARING**

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SUFFOLK,

*Commonwealth of Massachusetts, ss:*

I, Laurence M. Lombard, on oath do say that I am counsel for the appellant in the above-entitled cause; that the said cause was continued on January 22, 1925, when it was reached for hearing because the record was not then in print, as the case was appealed from the United States District Court for the District of Massachusetts *in forma pauperis* and was certified to this court by the Circuit Court of Appeals for the First Circuit, and there were no funds available for such printing; that affiant understands that the record is now in the course of printing; that the case should be reinstated for hearing at the present term because of the importance of the questions involved and because it is expected that counsel for both parties will be ready to proceed with the argument of the case on the date suggested for reinstatement.

LAURENCE M. LOMBARD.

Subscribed and sworn to, before me, this 17th day of February, 1925.

[SEAL,]

GEORGE S. FULLER,  
*Notary Public.*



**AFFIDAVIT IN SUPPORT OF JOINT REQUEST OF COUNSEL  
TO REINSTATE FOR HEARING**

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CITY OF WASHINGTON,  
*District of Columbia, ss:*

James M. Beck, Solicitor General of the United States, being duly sworn, deposes and says that the above case was continued by the Court when reached for argument on January 22, 1925, because the record was not then in print; that affiant understands that the record is now in course of printing; that it is expected that the record will be in print and that counsel for both parties will be fully prepared to proceed with the argument of the case on the date suggested for reinstatement in the joint request of counsel herewith; that this case is here upon a certificate from the Circuit Court of Appeals for the First Circuit, and it is believed that the desirability of having the questions certified answered without undue delay warrants the reinstatement of the case for hearing at the present term.

JAMES M. BECK.

Subscribed and sworn to before me this 13th day  
of February, 1925.

[SEAL.]

W. MARVIN SMITH,  
*Notary Public, D. C.*

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